

The roof conditions cited in Order No. 2144040 created the danger of a roof fall. Since a number of people (about seven) regularly went into this area, there was a reasonable likelihood that one of them would be injured if a roof fall occurred. The type of injury which could result, of course, could be a fatality. Also, the roof conditions were allowing methane to escape. This could result in an explosion or, if a person were present when a large quantity of gas was escaping, he or she could be killed as a result of low oxygen.

The practice cited in one part of Order No. 2144047, i. e., failing to conduct an adequate preshift inspection of the roof, created a serious hazard. The purpose of the preshift examination is to detect and report hazardous conditions, so that corrective measures can be taken. The failure to report the dangerous roof condition could have significantly and substantially contributed to a serious mine accident.

However, the second part of Order No. 2144047, the failure to report leaking methane, was not proved by a preponderance of the evidence.

Respondent is a large operator. At the time of the inspection, Quinland Mine No. 1 was producing about 800,000 tons of coal a year and employed about 150 employees.

Considering all of the criteria of section 110(i) of the Act a civil penalty of \$850 is ASSESSED for the roof violation (30 C.F.R. § 75.200).

Considering all of the criteria of section 110(i) of the Act, a civil penalty of \$450 is ASSESSED for the preshift examination violation (30 C.F.R. § 75.303). This penalty is reduced from the Secretary's proposal of \$900 because of the failure to prove the part of the charge concerning failure to report a methane hazard in the preshift report.

CONCLUSIONS OF LAW

¹ The Commission's administrative law judge has jurisdiction in this proceeding.